

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury

Date: APR 09 2002

Employer Identification Number:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely,

Steven Miller

Director, Exempt Organizations

Enclosures:

ENCLOSURE I
FORM 6018
PUBLICATION 892

ENCLOSURE I

FACTS

[REDACTED]

The evidence presented disclosed that your organization was incorporated on [REDACTED] in the State of [REDACTED]. The purposes stated on the certificate of incorporation are to "transcribe, proofread and/or print [REDACTED] material(s) for use by [REDACTED] or others who require [REDACTED] to participate in and utilize community or individual businesses, services, and activities."

Your primary activity is conducting a [REDACTED] in which you select a business, organization event or organization to which you will donate up to four copies of complimentary transcribed, proofread and embossed material such as a menu, policy and procedural manual, wedding or ceremonial event brochure. You indicate that the purpose of the program is to provide [REDACTED] material(s) for use by [REDACTED] or others who require [REDACTED] so that such individuals may independently participate in and access business, community or individual events and activities. In addition, you state you will update, transcribe, proofread and emboss material upon request from individuals, businesses, and organizations, etc. for a fee.

Your further stated that fees for services/merchandise is dependent upon the services performed and who the receiver is. Recipients of donative from the [REDACTED] will not be required to pay for the initial transcribing, proofreading, embossing, binding, and labeling of up to four copies per volume as this will be charged to update the information and to request additional copies. Many billed-for-services are calculated according to the number of [REDACTED] pages involved. [REDACTED] individuals who need information transcribed, proofread, embossed, Binded and Labeled receive up to 4 [REDACTED] pages for free. Additional charges apply for material over the allotted free pages.

LAW

Section 501(c)(3) of the Internal Revenue Code provides for the exemption of organizations which are organized and operated exclusively for charitable, religious and educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provide that in order to qualify for exemption under Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more specified exempt purposes. Failure to meet either the organizational or operational tests will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. The term includes: relief of the poor or distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(e)(1) of the Regulations provides that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operations of such trade or business is in furtherance of an exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business as

[REDACTED]

defined in Internal Revenue Code section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of activities that are in furtherance of one or more exempt purposes.

Revenue Ruling 77-4, C.B. 1977-1, provides that a nonprofit organization, whose only activities are preparing and publishing a newspaper of local, national, and international news articles with an ethnic emphasis, soliciting advertising and selling subscriptions to that newspaper in a manner indistinguishable from ordinary commercial publishing practices, is not operated exclusively for charitable and educational purposes and does not qualify for exemption.

In Christian Manner International, Inc., 71 TC 661, Dec. 35, 853, while the taxpayer's articles of incorporation indicated that the purposes for its organization were religious, charitable and educational, its primary activity was the publication and sale of religiously inspired and oriented books written by the founder and sold commercially at a profit. This commercial purpose caused the taxpayer to be denied tax exemption.

In Better Business Bureau v. United States, 326 U.S. 279-283, (1945), the court held that the existence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes.

SERVICE POSITION

While your organization meets the organizational test required by section 501(c)(3) of the Code, you have not established that your operations are conducted in a manner that furthers exempt purposes. The element of public benefit is a necessary condition of legal charity. Therefore, an organization is required to be set up for the benefit of a charitable class of individuals.

[REDACTED]
[REDACTED]

Similar to the above revenue ruling and court cases, your organization operates primarily as a service to businesses and others who may feel it necessary to incur the expenses associated with your services in an effort to accommodate those who may be [REDACTED]. In such an instance, you provide or offer only an indirect benefit to a charitable class of individuals. In actuality, you serve as a convenience to the business owners and others who would incur such expenditures if they so choose. This is considered a normal operating expense incurred in the ordinary course of conducting business. Since your activity is not directly targeted toward a charitable class, your operation is not unlike any other commercial printing or publishing organization providing similar services.

CONCLUSION

Based on the information submitted, the Internal Revenue Code, Regulations and the case law cited, we have concluded that you do not qualify for tax-exempt status as an organization described in section 501(c)(3) of the Code.